
John C. Greer, Jr.
Attorney at Law

May 22, 2008

Fire and Police Commission
% Camerino Sanchez, Police Chief
215 E. Figueroa Street
Santa Barbara, California 93101

Re: Request to Deny Dance Permit for Madison's Grill and Tavern
525 State Street

Dear Chairman and Members:

I represent Hotel Santa Barbara (Hotel) and respectfully request that the Commission deny the dance permit requested by Those Guys Inc., dba Madison's Grill and Tavern (Madison's). This request comports with the third recommendation from the Commission's staff that states:

"Or

3) Deny the application based on reported criminal offenses and noise concerns from the neighbors, specifically the Hotel Santa Barbara."

This permit should be denied in accordance with Chapter 5.20 of the Santa Barbara Municipal Code (SBMC), section 5.20.070 (C) 3, 4 and 5. The Commission should also deny the permit because of past violations of Section 5.20.150 (E) that are grounds for suspension or revocation of a Dance Permit. Finally, the Permit should be denied because the applicant knowingly operated the establishment for several years without a dance permit as required by the SBMC.

Specifically, number three of section 5.20.070 of Chapter 5.20 of the SBMC, page 119 states, "The operation of a nightclub at the proposed permit location will interfere with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location, such that it would deprive the occupants of such dwellings of the reasonable use and enjoyment of their residential property." My client rents rooms on a nightly and extended stay basis to visitors and business representatives who reside in rooms directly adjacent to Madison's. In fact, only three inches separate the two buildings. The noise emanating from the music at Madison's is not and cannot be contained within their structure as it permeates their walls and intrudes on the residents of the Hotel depriving them of the reasonable use and enjoyment of their residence.

Aside from the noise from Madison's permeating the Hotel, Madison's is proposing to leave the front and patio doors open according to their noise mitigation plan. Leaving the doors open will only exacerbate the noise problem, not mitigate it. If Madison's cannot restrict the noise of the dance club to within their structure they are in violation of

Page Two

Re: Request to Deny Dance Permit for Madison's Grill and Tavern
525 State Street

number four of section 5.20.070 of Chapter 5.20 of the SBMC, page 119. Specifically, the SBMC states:

" . . . 4. The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure. . . "

Number five of section 5.20.070 of Chapter 5.20 of the SBMC, page 119 provides grounds for denying the requested dance permit if:

" . . . 5. The proposed plan for maintaining security at the nightclub is inadequate."

Madison's security plan of five (5) security guards on Thursday, four (4) on Friday and five (5) on Saturday is inadequate on its face based on their prior history. Attachment one is a list of fifty-seven (57) cases identified by the Santa Barbara Police Department from January 2006 through April 2008 pertaining to violations of the Municipal Code, the State Penal Code or the Business and Professions Code. Twenty-Three (23) of those cases were in 2007 and so far this year there have been 8 cases. The cases include Battery, Battery with bodily injury, assault, sexual battery, disturbing the peace fighting, drunk in public and drugs. Attachment two identifies that more than 25% of the cases were for Battery/Fighting/Assault.

Additionally, if Madison's had obtained a valid dance permit in accordance with the SBMC it should have been revoked under Section 5.20.150 (E) which states:

"The suspension or revocation of a dance permit shall be based on a written finding, supported by adequate evidence, that one or more of the following circumstances has occurred with respect to the operation of the establishment holding the dance permit:

1. That the Permittee has allowed repeated violations of any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or
2. That the Permittee has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises is located; or
3. That the Permittee has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the

Page Three

Re: Request to Deny Dance Permit for Madison's Grill and Tavern
525 State Street

- sale of alcohol to persons under 21 years of age) as determined by the ABC;
or
4. That the Permittee has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of Uniform Fire Code occupancy requirements have occurred on more than one occasion; or
 5. That the Permittee has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter; or
 6. That the Permittee has substantially altered or changed the approved interior site plan floor configuration.

Specifically, with the exception of number 6 above, Madison's has violated every provision of this section of the SBMC thereby providing grounds for revocation of a dance permit. It stands to reason that if there are grounds to revoke a permit, one should not be granted.

Finally, on April 15, 2008, a letter, Attachment three, was sent to Diane and Derek Harding, president and vice president, respectively, of Those Guys, Inc. dba Madison's Grill and Tavern indicating they were in violation of the SBMC 5.20 because they were operating without a dance permit. The original permit was issued to Luigi DiVicente and Lawrence DeSimone on February 22, 2001, Attachment four. The letter to Mr. DiVicente and Mr. DeSimone clearly states that the dance permit is not to be transferred to any successor interest in the business. The Harding's have been the corporate officers of Those Guys, Inc. at least since May 2002 and have been operating without a valid dance permit for six (6) years or more.

This fact is confirmed by reviewing the California Department of Alcoholic Beverage Control (ABC) License Query System Summary as of May 20, 2008, Attachment five. Most recently, the ABC cited Madison's on August 7, 2004 for sale to a minor (Business and Professions Code, section 25658(a)) and failure to take reasonable steps to correct any objectionable conditions on the premises (24200(a&b)). Madison's was previously cited on May 7, 2002 by the ABC for violation of Section 24200(a&b) and for Penal Code section 148(a)(1) obstruction of an official investigation.

Hence, it is incongruent for the City to grant a permit to the Harding's and Madison's when they have knowingly operated their business without a dance permit in violation of the SBMC for an extended period of time.

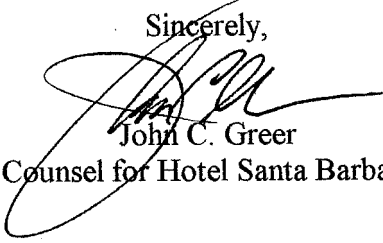
John C. Greer, Jr.
Attorney at Law

Page Four

Re: Request to Deny Dance Permit for Madison's Grill and Tavern
525 State Street

For all the above reasons, my client respectfully requests that the Commission support Staff's recommendation number three and deny the dance permit.

Sincerely,



John C. Greer
Counsel for Hotel Santa Barbara

Attachment ONE

15-MAY 2003 07:00

Santa Barbara Police Department - S.U.S.T.E.D.

Crime Linking Utility

Page 1

ALL OFFENSES 525 STATE ST: 010136_051508

CASE NUMBER	OFFENSE	LOCATION	DTEOCC	TIME
00/18/06	15B12-PT OTHER >200 484PC	STATE ST 0525	01/24/06	2030
00/37/06	12C01-BATTERY 242PC	STATE ST 0525	02/17/06	0030
00/45/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	02/26/06	0047
00/47/06	22E07-DISTURB THE PEACE, OTHER	STATE ST 0525	03/01/06	0115
00/51/06	12C01-BATTERY 242PC	STATE ST 0525	03/04/06	2330
00/57/06	15D12-PT OTHER 50-200 484PC	STATE ST 0525	03/12/06	1200
00/97/06	22F12-THREATS	STATE ST 0525	03/24/06	0130
00/67/06	12C01-BATTERY 242PC	STATE ST 0525	03/25/06	1620
00/72/06	22A04-DRUNK 647(F)PC	STATE ST 0525	04/02/06	0145
00/77/06	12C01-BATTERY 242PC	STATE ST 0525	04/08/06	2345
00/87/06	12C01-BATTERY 242PC	STATE ST 0525	04/14/06	0001
00/91/06	22F11-MISC MISDEMEANORS/OTHER	STATE ST 0525	04/27/06	0035
01/01/06	15B13-PT W/PRIOR JAIL < \$50	STATE ST 0525	05/09/06	1900
01/02/06	22A04-DRUNK 647(F)PC	STATE ST 0525	05/11/06	1415
01/08/06	24A09-OPEN CONTAINER 0905010 MC	STATE ST 0525	05/19/06	0140
01/27/06	22A04-DRUNK 647(F)PC	STATE ST 0525	06/11/06	0146
01/32/06	18F03-VEH CODE VIOLATION, OTHER	STATE ST 0525	06/15/06	2345
01/43/06	24A09-OPEN CONTAINER 0905010 MC	STATE ST 0525	06/29/06	2358
01/44/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	07/02/06	0105
01/75/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	08/05/06	2345
01/94/06	23C01-LOST PROPERTY	STATE ST 0525	08/06/06	0140
02/20/06	12C03-BATTERY W/BODILY INJ	STATE ST 0525	08/28/06	0000
02/37/06	12A02-ADW,KNIFE	STATE ST 0525	09/29/06	0130
02/76/06	12C03-BATTERY W/BODILY INJ	STATE ST 0525	12/15/06	2345
02/77/06	22E04-DISTURB THE PEACE, BARS	STATE ST 0525	12/16/06	2320
00/14/07	17E07-ALTERATION CDL	STATE ST 0525	01/20/07	2113
00/29/07	23C01-LOST PROPERTY	STATE ST 0525	01/20/07	0000
00/23/07	12C03-BATTERY W/BODILY INJ	STATE ST 0525	01/20/07	0030
00/37/07	22F12-THREATS	STATE ST 0525	01/26/07	2330
00/31/07	21F10-VAND, RESI, 6400-4999 594(B)(1)	STATE ST 0525	02/04/07	2000
00/30/07	22E04-DISTURB THE PEACE, BARS	STATE ST 0525	02/09/07	2130
00/43/07	15B07-PT BLDG >200 484PC	STATE ST 0525	02/26/07	2100
00/41/07	22E09-DISTURB THE PEACE, FIGHT	STATE ST 0525	02/25/07	0125
00/54/07	23C01-LOST PROPERTY	STATE ST 0525	03/09/07	0000
00/78/07	22F01-DEFAUD INNKEEPER < \$400	STATE ST 0525	04/14/07	1900
01/04/07	20E09-POSS AMPHETAMINES 11377HS	STATE ST 0525	05/19/07	0045
01/18/07	15A12-CT OTHER 487(A)PC	STATE ST 0525	06/05/07	1100
01/21/07	22A04-DRUNK 647(F)PC	STATE ST 0525	06/10/07	0005
01/36/07	22A09-POSS/USE FALSE I.D.	STATE ST 0525	06/28/07	2255
01/48/07	22A09-POSS/USE FALSE I.D.	STATE ST 0525	07/13/07	0305
01/50/07	11D03-SEXUAL BATTERY 241.4PC	STATE ST 0525	07/28/07	2350
01/67/07	22A04-DRUNK 647(F)PC	STATE ST 0525	08/04/07	0134
01/67/07	22A04-DRUNK 647(F)PC	STATE ST 0525	08/04/07	0135
02/21/07	15B12-PT OTHER >200 484PC	STATE ST 0525	10/11/07	2130
02/21/07	22F05-SUSPICIOUS CIRCUMSTANCES	STATE ST 0525	10/22/07	0215
02/45/07	22F05-SUSPICIOUS CIRCUMSTANCES	STATE ST 0525	11/04/07	1700
04/14/07	22A04-DRUNK 647(F)PC	STATE ST 0525	12/08/07	0115
04/31/07	12C03-BATTERY 242PC	STATE ST 0525	12/17/07	0044
02/17/08	12A04-ADW, HANDS & FEET	STATE ST 0525	02/05/08	0030

Attachment ONE

Santa Barbara Police Department - B.O.S.T.D.

15-MAY-2008 07:00

Crime Linking Utility

Page 2

ALL OFFENSES 525 STATE ST: 010106_051508

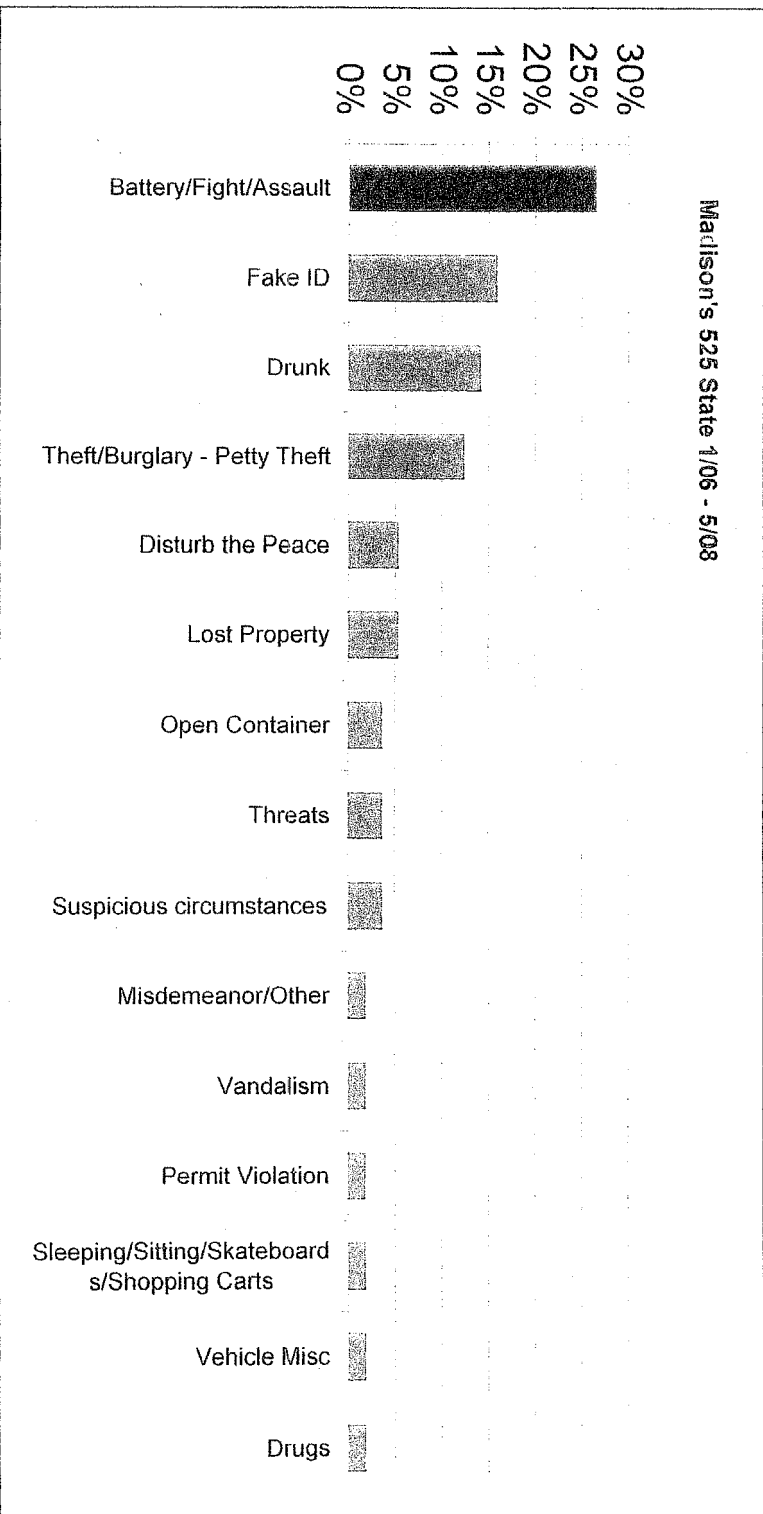
CASE NUMBER	OFFENSE	LOCATION	DTBOCC	TIME
01/43/08	22A09-POSS/USE FALSE I.D.	STATE ST 0525	02/29/08	0059
01/63/08	24001-MISC B&P VIOLATIONS	STATE ST 0525	03/07/08	2330
01/77/08	22A21-POSS OF SHOPPING CART	STATE ST 0525	03/13/08	2200
01/77/08	17E07-ALTERATION DDL	STATE ST 0525	03/14/08	0005
02/18/08	12C01-BATTERY 2NDPC	STATE ST 0525	03/29/08	1147
02/35/08	22E09-DISTURB THE PEACE, FIGHT	STATE ST 0525	04/04/08	2345
02/88/08	22A09-POSS/USE FALSE I.D.	STATE ST 0525	04/26/08	0130

Total record count: 57

**Madison's 525 State Street
1/1/06 - 5/8/08 Crime Stats**

A. Hachman + TW2

Battery/Fight/Assault	26%
Fake ID	16%
Drunk	14%
Theft/Burglary - Petty Theft	12%
Disturb the Peace	5%
Lost Property	5%
Open Container	4%
Threats	4%
Suspicious circumstances	4%
Misdemeanor/Other	2%
Vandalism	2%
Permit Violation	2%
Sleeping/Sitting/Skateboards/Shopping Carts	2%
Vehicle Misc	2%
Drugs	2%





City of Santa Barbara

Police Department

www.sbpd.com

April 15, 2008

Diane and Derek Harding
c/o Madison's Grill and Tavern
525 State St.
Santa Barbara, CA 93101

Re: Dance Permit Issued February 26, 2001

Chief's Office
805.897.2395

Mr. and Mrs. Harding:

General Information
805.897.2300

Animal Control
805.963.1513

Business Office
805.897.2400

Community Services
805.897.3717

Dispatch
805.897.2410

Office of Emergency
Services
805.897.3725

Parking
805.897.2360

Patrol
805.897.2392

Records
805.897.2355

Based upon a citizen complaint, the Santa Barbara Police Department recently investigated the status of the dance permit dated February 26, 2001 associated with 525 State Street and Madison's Grill and Tavern, issued to Luigi DiVicente and Lawrence DeSimone. According to our investigation, as of May 2006, neither DiVicente nor DeSimone were owners of Madison's. Since May 2006, various ownership changes have occurred. According to the issued dance permit, "[i]f the business changes ownership or address, a new permit must be obtained from this Commission (Fire and Police Commission)... [t]his permit may not be transferred to any successor interest in the business." (See enclosed copy of the dance permit dated February 26, 2001.) Furthermore, Santa Barbara Municipal Code section 5.20.130 prohibits the transfer of dance permits. Based on the foregoing, the dance permit issued on February 26, 2001 is technically void.

To remedy the situation, you must apply for a new dance permit. A completed Nightclub Dance Permit Application (enclosed) must be submitted, along with a check for all applicable fees, to the Police Technician in the Police Department Annex, at 222 E. Anapamu Street, **no later than 4:00 p.m. on May 1, 2008**. Applicants will be required to undergo and complete all steps of the application process as mandated by Santa Barbara Municipal Code Chapter 5.20. The Santa Barbara Police Department will make every effort to process the application expeditiously. Barring any unforeseen delays, if the application is submitted by 4:00 p.m. on May 1st, it will be scheduled to be heard at the Fire and Police Commission meeting on Thursday, May 22, 2008, at which your attendance is highly recommended. **If you fail to timely submit the dance permit application, the City will be forced to commence enforcement against you.**

Please be advised that you may continue to have dancing at Madison's until your permit application is heard by the Fire and Police Commission on May 22, 2008.

Enclosed for your convenience is a copy of Chapter 5.20 of the Santa Barbara Municipal Code pertaining to dance permits, as well as a Nightclub Dance Permit Application. If you have any further questions, please contact Police Technician Holly Michels via phone (805) 897-2333 or via email: hmichels@sbpd.com.

Sincerely,

215 E. Figueroa St.
Santa Barbara, CA
93101

ROBERT LOWRY
Commander
Investigative Division

PO Box 539
Santa Barbara, CA
93102



Fire and Police Commission

City of Santa Barbara

215 EAST FIGUEROA
MAIL: P.O. BOX 539
SANTA BARBARA
93102

February 26, 2001

Mr. Luigi Divecente
Mr. Lawrence DeSimone
Madison's Grill & Tavern
525 State Street
Santa Barbara, California 93101

RE: Dance Permit Approval for Madison's Grill & Tavern, 525 State Street

Dear Mr. Divecente and Mr. DeSimone:

On February 22, 2001, the City of Santa Barbara Fire and Police Commission issued a Dance Permit at *525 State Street to Madison's Grill & Tavern*. This permit is issued with the following conditions:

This permit is strictly limited to allow only the occupant load for the premises as is approved by the Santa Barbara City Fire Department. Business shall be conducted in a manner that will not violate any provisions of the California Alcoholic Beverage Control Act, providing against the sale of alcohol to minors (§25658); maintaining the public health, morals, convenience and safety (§25601); and taking reasonable steps to correct any objectionable conditions on the premises and immediately adjacent to the premises (§24200).

For the protection of public health and safety, no dancing shall take place in or upon any location, area or surface other than those locations, areas and surfaces that have been approved for occupancy load/dancing by the Fire Department or Building and Safety Department. Dancing in or upon an unapproved location, area or surface shall be deemed a violation of the terms and conditions of the permit and cause for the review, suspension, amendment or revocation of this permit at the discretion of the Fire & Police Commission Board. If a change in the location of approved dancing areas is desired, the applicant must re-apply to the Fire and Police Commission for approval of these changes. Such application shall require approval of the Fire Department and Building and Safety prior to being accepted for review by the Fire and Police Commission Board.

Any complaints about noise, litter, traffic problems, disturbances, damage to property, injuries to persons, or failure to cooperate with peace officers under circumstances related to the operation of this business will subject this permit to review, amendment, suspension, or revocation, at the discretion of this Commission. If the business changes ownership or address, a new permit must be obtained from this Commission and a new permit must be obtained from the Tax and Permit Office at City Hall. This permit may not be transferred to any successor interest in the business. Any other change must be reported in writing to the Commission.

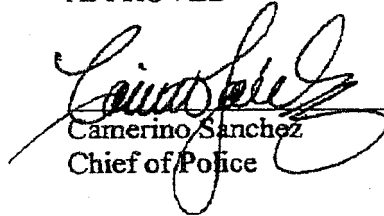
This permit is issued under the authority of the Santa Barbara Municipal Code, Chapter 5.20, §5.20.010 through §5.20.090, inclusive, and subject to all other applicable City, County and State laws, ordinances, rules, and regulations.

FIRE & POLICE COMMISSION



Jill B. Gordon
Secretary to the Commission

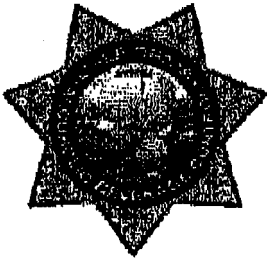
APPROVED



Camerino Sanchez
Chief of Police

Attachment

cc: Tax & Permit Office
City Attorney
Police Special Investigations
Fire & Police Commissioners

Attachment Five

**California Department of Alcoholic
Beverage Control
License Query System Summary
as of 5/20/2008**

License Information	
License Number: 346845	Status: ACTIVE
Primary Owner: THOSE GUYS INC	
ABC Office of Application: VENTURA	
Business Name	
Doing Business As: MADISONS GRILL & TAVERN	
Business Address	
Address: 525 STATE ST	Census Tract: 0009.
City: SANTA BARBARA	County: SANTA BARBARA
State: CA	Zip Code: 93101-1601
Licensee Information	
Licensee: THOSE GUYS INC	
Company Officer Information	
Officer: HARDING DIANE ELIZABETH, PRESIDENT/TREASURER	
Officer: HARDING DEREK MARK, VICE PRESIDENT/SECRETARY	
License Types	
1) License Type: 47 - ON-SALE GENERAL EATING PLACE	
License Type Status: ACTIVE	
Status Date: 31-JAN-2000	Term: 12 Month(s)
Original Issue Date: 31-JAN-2000	Expiration Date: 31-DEC-2008
Master: Y	Duplicate: 0 Fee Code: P40
2) License Type: 30 - TEMPORARY PERMIT	
License Type Status: ISSUE	
Status Date: 21-SEP-1998	Term: 0 Month(s)
Original Issue Date:	Expiration Date:
Master: Y	Duplicate: 0 Fee Code: NA
3) License Type: 58 - CATERER PERMIT	
License Type Status: ACTIVE	
Status Date: 31-JAN-2000	Term: Month(s)
Original Issue Date: 31-JAN-2000	Expiration Date: 31-DEC-2008
Master: N	Duplicate: 1 Fee Code: NA
4) License Type: 30 - TEMPORARY PERMIT	
License Type Status: ISSUE	
Status Date: 01-OCT-1999	Term: 0 Month(s)

California ABC - License Query System - Data Summary

Page 2 of 2

Attachment Five

Original Issue Date:	Expiration Date:
Master: Y	Duplicate: 0
Fee Code: NA	
Current Disciplinary Action	
... No Active Disciplinary Action found ...	
Disciplinary History	
Violation Date: Reg. Number: 00049952 Cleared On: 07-MAY-2002	
Reporting Agency: SANTA BARBARA P.D.	
1) Charge Date:	Section Violated: 24200(a&b)
Charge: GROUNDS FOR ACTION	
2) Charge Date:	Section Violated: PC148(a)(1)
Charge: DELAYED AND OBSTRUCTED INVESTIGATION	
Proceeding Status: COMPLETE Decision:	
Suspension Days: Stayed Days POIC/Fine:	
Suspension Start Date: Suspension End Date:	
Proceeding Status: COMPLETE Decision: REJECTED	
Suspension Days: Stayed Days POIC/Fine:	
Suspension Start Date: Suspension End Date:	
Proceeding Status: COMPLETE Decision: DISMISSED	
Suspension Days: Stayed Days POIC/Fine:	
Suspension Start Date: Suspension End Date:	
Violation Date: 07-AUG-2004 Reg. Number: 04058293 Cleared On: 18-JAN-2005	
Reporting Agency: ABC	
1) Charge Date: 07-AUG-2004	Section Violated: 24200(a&b)
Charge: GROUNDS FOR ACTION	
2) Charge Date: 07-AUG-2004	Section Violated: 25658(a)
Charge: SALE TO MINOR	
Proceeding Status: COMPLETE Decision: SUSPENDED	
Suspension Days: 10 Stayed Days 10 POIC/Fine:	
Suspension Start Date: Suspension End Date:	
Hold Information	
... No Active Holds found ...	
Escrow	
... No Escrow found ...	

--- End of Report ---

For a definition of codes, view our [glossary](#).